

Message Text

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SS-15 STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02
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COMMERCE/BEWT - MLEVINE (INFO)

TREASURY - MSEARING

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STR - ELAPP

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FM SECSTATE WASHDC

TO AMEMBASSY BUDAPEST

INFO AMEMBASSY BERLIN

AMEMBASSY BUCHAREST

AMEMBASSY MOSCOW

AMEMBASSY PRAGUE

AMEMBASSY SOFIA

AMEMBASSY WARSAW

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E.O. 11652: N/A

TAGS: EEWT, ETRD, HU

SUBJECT: DISCUSSION OF U.S. COUNTERVAILING-DUTY AND ANTI-DUMPING PROCEDURES WITH HUNGARIANS

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1. SUMMARY. HUNGARIAN TRADE NEGOTIATOR NYERGES SUGGESTED THAT U.S. NOT MENTION STATE-CONTROLLED ECONOMIES EXPLICITLY IN ITS PROPOSED COUNTERVAILING DUTY REGULATIONS, BUT HE ACCEPTED THE CONCEPT OF DETERMINING SUBSIDIES BY COMPARISONS WITH COSTS OF PRODUCTION IN OTHER COUNTRIES, WHEN OTHER PROCEDURES ARE INADEQUATE. HE FIRMLY OPPOSED DUMPING INVES-

TIGATIONS IN HUNGARY. END SUMMARY.

2. JANOS NYERGES, HUNGARY'S CHIEF TRADE NEGOTIATOR, ACCOMPANIED BY COMMERCIAL COUNSELOR GYULA LAKOS, MET WITH DEPUTY ASSISTANT SECRETARY PETER SUCHMAN AT TREASURY JUNE 29 FOR A DISCUSSION OF U.S. COUNTERVAILING-DUTY AND ANTIDUMPING LAWS, REGULATIONS AND PROCEDURES. NYERGES' THOROUGH UNDERSTANDING OF THE ISSUES PERMITTED A FULL AND BUSINESSLIKE EXCHANGE OF VIEWS.

3. MOST OF THE MEETING DEALT WITH PROPOSED COUNTERVAILING-DUTY REGULATIONS. NYERGES STATED AT THE OUTSET THAT HE RECOGNIZED U.S. LAWS WERE NOT LIMITED BY ANY CONTRACTUAL

OBLIGATIONS TO HUNGARY IN THIS AREA IN THE ABSENCE OF A BILATERAL TRADE AGREEMENT OR DISINVOCATION OF GATT ARTICLE 35). BUT NYERGES EXPRESSED CONCERN THAT U.S. REGULATIONS NOT AUTOMATICALLY DISCRIMINATE AGAINST STATE-CONTROLLED ECONOMIES.

4. SUCHMAN EXPLAINED THAT U.S. COUNTERVAILING-DUTY (CVD) LAW ITSELF DOES NOT DISCRIMINATE AMONG COUNTRIES OR ECONOMICS SYSTEMS. NO CVD PETITIONS HAVE BEEN SUBMITTED AGAINST NON-MARKET-ECONOMY GOODS, BUT WITH EXPANDING TRADE, PETITIONS MIGHT BE EXPECTED. IF A PETITION WERE SUBMITTED, TREASURY'S NORMAL PROCEDURES FOR IDENTIFYING AND MEASURING SUBSIDIES LIMITED OFFICIAL USE

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WOULD NOT BE WORKABLE (TO WHICH NYERGES NODDED AGREEMENT). THE TRADE ACT SHARPLY REDUCED TREASURY'S FLEXIBILITY IN HANDLING CVD PETITIONS BY SETTING TIME LIMITS AND ESTABLISHING THE RIGHT OF JUDICIAL REVIEW. THUS TREASURY PROPOSED TO ADOPT PROCEDURES SIMILAR TO THOSE PRESCRIBED BY U.S. ANTIDUMPING LEGISLATION. SUCHMAN NOTED THE PROPOSED REGULATIONS HAVE NOT BEEN BROUGHT INTO FORCE, AND SUGGESTED A BETTER FORMULATION COULD PERHAPS BE FOUND.

5. NYERGES SUGGESTED THAT THE PROPOSED REGULATIONS BE REDRAFTED TO APPLY TO CVD INVESTIGATIONS WHENEVER THE EXISTENCE OR NONEXISTENCE OF A SUBSIDY CANNOT BE DETERMINED, WITHOUT REFERENCE TO STATE-CONTROLLED ECONOMIES. UNDER NYERGES' FORMULATION, IF AVAILABLE INFORMATION IN A SPECIFIC CASE WERE INSUFFICIENT FOR THE DETERMINATION OF THE EXISTENCE OR SIZE OF A SUBSIDY BOUNTY OR GRANT"), THEN THE PRICE OF THE PRODUCT IN QUESTION WOULD BE COMPARED TO THE COSTS OF PRODUCTION (PLUS REASONABLE PROFIT, AND ADJUSTED FOR KNOWN DIFFERENCES IN FACTORS OF PRODUCTION) IN SOME OTHER COUNTRY WHERE INFORMATION WAS ADEQUATE, WITH THE DIFFERENCE TO BE CONSIDERED A SUBSIDY. ALTHOUGH NYERGES SAID HE DID NOT LIKE THIS PROCEDURE, HE ADDED THAT HE COULD

NOT THINK OF A MORE REASONABLE ALTERNATIVE. HE SAID THAT THE EXISTENCE OF A HUNGARIAN SUBSIDY IN A PARTICULAR PRODUCT WOULD BE IMPOSSIBLE TO ASSESS, BECAUSE SUBSIDIES WERE GRANTED TO BRANCHES OF INDUSTRY AND NOT SUBDIVIDED BY PRODUCT.

6. SUCHMAN SAID THAT U.S. WOULD BE WILLING TO THINK THROUGH THE IDEA OF A MORE GENERAL FORMULATION, ALTHOUGH THERE WAS NO REASON WHY THIS FORMULATION FOR STATE-CONTROLLED ECONOMIES SHOULD OPERATE TO THEIR DETRIMENT. IN PRELIMINARY REACTIONS TO NYERGES; SPECIFIC PROPOSAL, TREASURY OFFICIALS INDICATED THAT IT MIGHT GENERATE SERIOUS LEGAL PROBLEMS IN MARKET-ECONOMY CVD CASES WHERE SUBSIDIES ARE DIFFICULT TO MEASURE.
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7. NYERGES NOTED THAT HUNGARY'S SUBSIDY SYSTEM WAS EXAMINED WHEN HUNGARY ACCEDED TO THE GATT, AND THAT HUNGARY WAS COMMITTED TO REPORT CHANGES IN THE SYSTEM. HE INSISTED THAT THE SYSTEM WAS NOT DESIGNED TO SUBSIDIZE EXPORTS, BUT RATHER TO COMPENSATE FOR DOMESTIC TAXATION AND CURRENT CONVERSION RATES. HE SAID THERE ARE EVEN OFFSETTING TAXES ON EXPORTS TO COMPENSATE FOR SUBSIDIZED, IMPORTED COMPONENTS; THUS THE ONLY INPUT TO PRODUCTION WITH A NET SUBSIDY IS LABOR, WHICH ENJOYS FIXED-PRICE CONSUMER GOODS AND SERVICES. A DECREE SPECIFICALLY REQUIRES THAT EXPORT PRICES NOT DROP BELOW WORLD-MARKET LEVELS. NYERGES SAID HE WOULD BE WILLING TO PROVIDE DOCUMENTS RELEVANT TO CVD ACTION.

8. NYERGES EXPRESSED CONCERN THAT HUNGARY BE CONSULTED BEFORE CVDS WERE ASSESSED, SO THAT HUNGARY'S POSITION COULD BE HEARD AND HUNGARY COULD TAKE CORRECTIVE ACTION. SUCHMAN SAID THAT THIS WAS NORMAL TREASURY PRACTICE; BUT THERE WERE TIME LIMITS, AND CONSULTATIONS WOULD NOT PROVIDE HUNGARY WITH A VETO.

9. ANTIDUMPING: NYERGES NOTED THAT BOTH COUNTRIES HAD SIGNED THE ANTIDUMPING CODE. HE THOUGHT NO PROBLEM WOULD ARISE IF THE PROCEDURES PRESCRIBED BY THE CODE WERE MET, AND SAID HE DID NOT SEE A NEED FOR THIRD-COUNTRY COMPARISONS. HOWEVER, NYERGES SAID HE DID NOT "OBJECT FORMALLY" TO THE THIRD-COUNTRY APPROACH.

10. NYERGES COULD NOT GIVE A BLANKET ASSURANCE TO SUPPLY INFORMATION FOR ANTIDUMPING CASES, ALTHOUGH HE THOUGHT IT WOULD BE IN THE INTEREST OF INDIVIDUAL ENTERPRISES TO COOPERATE. HE STRESSED THAT THE GOVERNMENT COULD NOT
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AGREE TO ANY INVESTIGATION ON ITS TERRITORY. SUCHMAN NOTED THAT THIS WOULD EXCLUDE USE OF HOME-MARKET PRICES TO DETERMINE DUMPING (AND THUS ENTAIL A THIRD-COUNTRY COMPARISON). NYERGES REPLIED, "LE'S HAVE A CASE. YOU ASK

QUESTIONS ACCORDING TO THE CODE. EITHER YOU'LL GET ANSWERS, OR YOU WON'T."

11. COMMENT: NYERGES CLEARLY PERCEIVES THE DILEMMA OF APPLYING MARKET-ECONOMY STANDARDS TO A COUNTRY WHICH LACKS FREE PRICE DETERMINATION AND RESTRICTS ACCESS TO INFORMATION. HIS READINESS TO SUPPLY "DOCUMENTS" REGARDING SUBSIDIES CONTRASTED SHARPLY WITH HIS FIRM LINE AGAINST DUMPING INVESTIGATIONS. PRESUMABLY HE INTENDED TO OFFER ONLY DOCUMENTS RELATING TO GENERAL PUBLIC POLICY--DECREES AND REGULATIONS--RATHER THAN THE SPECIFIC FACTS OF A GIVEN CASE. VANCE

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